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APPLICATION NO	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/762,934	01/21/2004	Ben Wei Chen	3035P (SUP-036)	5756

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BEVER HOFFMAN & HARMS, LLP  
TRI-VALLEY OFFICE  
1432 CONCANNON BLVD., BLDG. G  
LIVERMORE, CA 94550

EXAMINER

MYERS, PAUL R

ART UNIT	PAPER NUMBER
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2111

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	02/07/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/762,934	<b>Applicant(s)</b> CHEN, BEN WEI	
	<b>Examiner</b> Paul R. Myers	<b>Art Unit</b> 2111	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 13 September 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 25-42 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 25-42 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Response to Arguments*

1. Applicant's arguments with respect to claims 25-42 have been considered but are moot in view of the new ground(s) of rejection.

### *Double Patenting*

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claim 25-42 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-24 of U.S. Patent No. 7,103,765. Although the conflicting claims are not identical, they are not patentably distinct from each other because The patent independent claim 1 claims a bus interface logic for interfacing in conjunction with a control program that boots up the computing device and transfers a server image from memory. Dependant claim 3 states the memory is flash memory, and dependant claim 2 states the

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controlling the computing device from buttons on connected unit. The independent claim 25 of the application claims a means for transferring a server image from a flash memory device and means for controlling the processor of the computing device in response to control buttons.

Dependant claim 26 states that the means for transferring in a bus interface logic. And

Dependant claim 27 states the means for transferring comprises booting up the computer device.

Thus the means for transferring is a bus interface logic that boots up the computer and transfers a server image from a flash memory. A dependant claim inherits all the limitations of the claim upon which it depends.

Claims 25-42 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-27 of copending Application No.

10/875,048. Although the conflicting claims are not identical, they are not patentably distinct from each other because the LED and LCD displays are claimed earlier in the current application thus changing dependency in the claims.

### ***Claim Rejections - 35 USC § 103***

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claim 25-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamper PN 6,654,797 in view of Glenn PN 5,406,261.

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In regards to claim 25: Kamper teaches A thin server assembly (104, 114, 116, or 118) comprising: a computing device including a processor (202 or 204); an electronic data flash device (320) detachably coupled to the computing device (via port 312), the electronic data flash device including a flash memory device (322); means for transferring server image information from the flash memory device to the computing device such that the processor of the computing device is configured to function as a server according to the transferred server image information (Abstract). Kamper teaches control buttons (Column 1 lines 41-51). Kamper however does not teach the add in device having control buttons or the server being a server on a board. Glenn teaches an external device (52) including control buttons (62, 64) for controlling the processor of the computing device in response to actuation of the one or more control buttons. Glenn's device is attached wirelessly as opposed to through a port. Official notice is taken that server's on a board are well known in the art. Called blade servers. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include control buttons on the smart card of Kamper because this would have provided the controls conveniently to the operator who inserts the smart card. It would have been obvious to provide the server as a blade server because this would have provided for savings of space.

In regards to claim 26: Kamper teaches a bus interface logic (310).

In regards to claim 27: Both Kamper and Glenn teach means for booting up the computing device.

In regards to claim 28: Both Kamper and Glenn teach means for shutting down the computing device.

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In regards to claims 29-30: Both Kamper and Glenn teach restoring the computer to a default state (Booted). Glenn does not teach holding the button for a predetermined period of time. Official notice is taken that button debounce (Holding a button a predetermined time period to prevent spurious activation) is very well known. It would have been obvious to include button debounce logic in the buttons of Glen because this would have prevented accidental powering/depowering due to spurious button signals.

6. Claims 31-32, 35-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamper PN 6,654,797 in view of Glenn PN 5,406,261 as applied to claim 25 above, and further in view of Shino PN 4,843,223.

In regards to claims 31, 35: Kamper teaches a display for displaying status information (Column 1 lines 41-51). Kamper however does not teach the display being on the add in device. Shino teaches a memory card including control buttons and a display. It would have been obvious to a person of ordinary skill in the art at the time of the invention to include a display on the add in card because this would have allowed the user to observe proper configuration of the server with out having to add an additional display on the server (Which is the motivation of Kamper).

In regards to claims 32, 36: Kamper teaches the display can be an LED display. Shinto teaches the display being an LCD display.

In regards to claim 37: Kamper teaches a bus interface logic (310).

In regards to claim 38: Both Kamper and Glenn teach means for booting up the computing device.

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7. Claims 33-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamper PN 6,654,797 in view of Glenn PN 5,406,261 as applied to claim 25 above, and further in view of Ban et al PN 6,148,354.

In regards to claims 33-34: Kamper teaches the flash device being a smart card. Kamper also states that “the present invention is not limited to the particular embodiments described herein. For example, other storage devices may be used instead of a smart card and smart card reader.” (Column7 lines 44-47) Ban expressly teaches another type of flash memory device being a USB device. Official notice is taken that there are other types of mflash memory cards such as Express PCI etc... It would have been obvious to a person of ordinary skill in the art at the time of the invention to use any of a USB flash memory or other flash memory device because this would have allowed for different types of control without departing from the spirit of Kamper’s invention.

8. Claims 39-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kamper PN 6,654,797 in view of Glenn PN 5,406,261 and Shino PN 4,843,223 as applied to claim 35 above, and further in view of Ban et al PN 6,148,354.

In regards to claims 39: Kamper teaches the flash device being a smart card. Kamper also states that “the present invention is not limited to the particular embodiments described herein. For example, other storage devices may be used instead of a smart card and smart card reader.” (Column7 lines 44-47) Ban expressly teaches another type of flash memory device being a USB device. Official notice is taken that there are other types of mflash memory cards such as Express PCI etc... It would have been obvious to a person of ordinary skill in the art at the time of the invention to use any of a USB flash memory or other flash memory device

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because this would have allowed for different types of control without departing from the spirit of Kamper's invention.

In regards to claim 40: Both Kamper and Glenn teach means for shutting down the computing device.

In regards to claims 41, 42: Both Kamper and Glenn teach restoring the computer to a default state (Booted). Glenn does not teach holding the button for a predetermined period of time. Official notice is taken that button debounce (Holding a button a predetermined time period to prevent spurious activation) is very well known. It would have been obvious to include button debounce logic in the buttons of Glen because this would have prevented accidental powering/depowering due to spurious button signals.

### *Conclusion*

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

PN 7,158,948 to Rodriguez et al teaches a smart card with control buttons and a display.

US 2005/0041385 to Kikinis et al teaches a different type of flash memory device with control buttons, including power and a LCD display.

PN 5,838,982 to Cooper et al teaches a computer power switch including a debounce timer.

PN 6,792,515 to Smith and PN 6,950,895 to Bottom both teach blade servers.



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10. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.


Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul R. Myers whose telephone number is 571 272 3639. The examiner can normally be reached on Mon-Thur 6:30-4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mark Rinehart can be reached on (571) 272-3632. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PRM  
January 30, 2007

  
**PAUL R. MYERS**  
**PRIMARY EXAMINER**